

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

V.

1:17cr00224-AT-CMS

ALLAN PENDERGRASS

MOTION TO DISMISS BASED ON DOUBLE JEOPARDY

Comes now the Defendant, by and through counsel, and hereby files this, his motion to dismiss the above styled indictment due to it being violative of double jeopardy, and in support of his motion shows the Court as follows:

1.

On or about June 27, 2017, Defendant was indicted in this District (Case 1:17cr00224AT-CMS) Defendant was just finishing the custodial portion of his sentence which he was serving (30 months to serve, followed by 3 years supervised relief) for Case No. 2:14cr-0021-GCS which involved the United States District Court in the Southern District of Ohio (See Attachment 1) . The Ohio indictment was returned January 30, 2014, and alleged violations of 18 U.S.C. 1344, 18 U.S.C. 982 (a)(2)(A), and 18U.S.C. 1028 (A)(a)(1). Essentially it alleged Defendant, while working at Guishard, Wilburn and Shorts, LLC, received checks stolen in the State of Georgia and would deposit them in a Huntington National Bank account in the name Guishard, Wilburn and Shorts.

2.

The present indictment alleges that the Defendant and others , again using an account of Guishard, Wilburn anda Shorts, LLC, deposited allegedly fraudulently obtained purportedly unclaimed funds and after obtaining authority, lawful or otherwise, obtained these particular

funds for personal benefit.

3.

The Fifth Amendment to the United States Constitution provides double jeopardy protection. Further, these alleged crimes are not so different that they should have in any way have been separated. Therefore the charges against Mr. Pendergrass should be dismissed.

WHEREFORE, Defendant prays that a hearing be held, that the aforesyled indictment be dismissed, and for such other relief that this Court deems appropriate.

Respectfully submitted,

S/Robert H. Citronberg

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing motion was served electronically on:

Mr. Jeff Brown
Assistant United States Attorney
Richard B. Russell Courthouse
75 Spring St., SW
Atlanta, Ga. 30303.

This 5th day of October, 2017

S/Robert H. Citronberg

Robert H. Citronberg
Attorney for Defendant Pendergrass (Court
Appointed)

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